

REFERENCE TITLE: **Arizona innocence inquiry commission**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2285**

Introduced by  
Representatives Sinema: Ableser, Campbell CL, Gallardo, Lopes, Lujan,  
Meza, Prezelski

**AN ACT**

**AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3017.01; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 44; RELATING TO THE ARIZONA INNOCENCE INQUIRY COMMISSION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 27, article 2, Arizona Revised Statutes,  
3 is amended by adding section 41-3017.01, to read:

4 41-3017.01. Arizona innocence inquiry commission: termination  
5 July 1, 2017

6 A. THE ARIZONA INNOCENCE INQUIRY COMMISSION TERMINATES ON JULY 1,  
7 2017.

8 B. TITLE 41, CHAPTER 44 IS REPEALED ON JANUARY 1, 2018.

9 Sec. 2. Title 41, Arizona Revised Statutes, is amended by adding  
10 chapter 44, to read:

11 CHAPTER 44

12 ARIZONA INNOCENCE INQUIRY COMMISSION

13 ARTICLE 1. GENERAL PROVISIONS

14 41-4401. Definitions

15 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 1. "CLAIM OF FACTUAL INNOCENCE" MEANS A CLAIM THAT IS MADE ON BEHALF  
17 OF A LIVING PERSON WHO WAS CONVICTED OF A FELONY OFFENSE IN THIS STATE, THAT  
18 ASSERTS THE COMPLETE INNOCENCE OF THE CONVICTED PERSON FOR ANY CRIMINAL  
19 RESPONSIBILITY FOR THE FELONY AND FOR ANY OTHER REDUCED LEVEL OF CRIMINAL  
20 RESPONSIBILITY RELATING TO THE CRIME AND FOR WHICH THERE IS SOME CREDIBLE,  
21 VERIFIABLE EVIDENCE OF INNOCENCE THAT HAS NOT BEEN PREVIOUSLY PRESENTED AT  
22 TRIAL OR CONSIDERED AT A POSTCONVICTION RELIEF PROCEEDING.

23 2. "COMMISSION" MEANS THE ARIZONA INNOCENCE INQUIRY COMMISSION.

24 3. "DIRECTOR" MEANS THE DIRECTOR OF THE COMMISSION.

25 4. "VICTIM" MEANS THE VICTIM OF THE CRIME OR, IF THE VICTIM OF THE  
26 CRIME IS DECEASED, THE NEXT OF KIN OF THE VICTIM.

27 41-4402. Purpose of chapter

28 THIS CHAPTER ESTABLISHES AN EXTRAORDINARY PROCEDURE TO INVESTIGATE AND  
29 DETERMINE CREDIBLE CLAIMS OF FACTUAL INNOCENCE THAT REQUIRES AN INDIVIDUAL TO  
30 VOLUNTARILY WAIVE RIGHTS AND PRIVILEGES.

31 41-4403. Arizona innocence inquiry commission: members: terms

32 A. THE ARIZONA INNOCENCE INQUIRY COMMISSION IS ESTABLISHED CONSISTING  
33 OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE CHIEF JUSTICE OF THE  
34 SUPREME COURT:

35 1. ONE SUPERIOR COURT JUDGE WHO SERVES AS CHAIRPERSON OF THE  
36 COMMISSION.

37 2. ONE PROSECUTING ATTORNEY.

38 3. ONE MEMBER WHO IS A VICTIM ADVOCATE.

39 4. ONE MEMBER WHO IS A CRIMINAL DEFENSE ATTORNEY.

40 5. ONE MEMBER WHO IS NOT AN ATTORNEY AND WHO IS NOT AN OFFICER OR  
41 EMPLOYEE OF THE JUDICIAL DEPARTMENT.

42 6. ONE COUNTY SHERIFF.

43 7. TWO ADDITIONAL MEMBERS.

1 B. IN MAKING THE APPOINTMENTS, THE CHIEF JUSTICE SHALL MAKE A GOOD  
2 FAITH EFFORT TO APPOINT MEMBERS WITH DIFFERENT PERSPECTIVES OF THE JUSTICE  
3 SYSTEM AND SHALL CONSIDER GEOGRAPHICAL LOCATION, GENDER AND RACIAL DIVERSITY.

4 C. MEMBERS SERVE THREE YEAR TERMS AND SHALL NOT SERVE MORE THAN TWO  
5 CONSECUTIVE TERMS. THE CHIEF JUSTICE MAY REMOVE MEMBERS FOR CAUSE.

6 D. MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE  
7 FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

8 E. THE COMMISSION SHALL MEET AT LEAST BIENNIALY AND ON CALL OF THE  
9 CHAIRPERSON. A MAJORITY OF THE MEMBERS CONSTITUTE A QUORUM.

10 F. THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE  
11 ADMINISTRATIVE SUPPORT TO THE COMMISSION. THE DIRECTOR OF THE ADMINISTRATIVE  
12 OFFICE OF THE COURTS SHALL NOT REDUCE OR MODIFY THE BUDGET OF THE COMMISSION  
13 OR USE FUNDS APPROPRIATED TO THE COMMISSION WITHOUT THE APPROVAL OF THE  
14 COMMISSION.

15 41-4404. Director; staff

16 A. THE COMMISSION SHALL EMPLOY A DIRECTOR. THE DIRECTOR SHALL BE A  
17 MEMBER OF THE STATE BAR AT THE TIME OF APPOINTMENT AND AT ALL TIMES DURING  
18 SERVICE AS DIRECTOR.

19 B. THE DIRECTOR SHALL ASSIST THE COMMISSION IN DEVELOPING RULES AND  
20 STANDARDS FOR CASES THAT ARE ACCEPTED FOR REVIEW.

21 C. SUBJECT TO THE APPROVAL OF THE CHAIRPERSON, THE DIRECTOR SHALL  
22 EMPLOY STAFF AND CONTRACT FOR SERVICES AS NECESSARY TO ASSIST THE COMMISSION  
23 IN THE PERFORMANCE OF ITS DUTIES.

24 41-4405. Powers and duties

25 A. THE COMMISSION SHALL:

26 1. ESTABLISH THE CRITERIA AND SCREENING PROCESS TO BE USED TO  
27 DETERMINE WHICH CASES WILL BE ACCEPTED FOR REVIEW.

28 2. CONDUCT INQUIRIES INTO CLAIMS OF FACTUAL INNOCENCE, GIVING PRIORITY  
29 TO CASES IN WHICH THE CONVICTED PERSON IS CURRENTLY INCARCERATED SOLELY FOR  
30 THE CRIME FOR WHICH THE PERSON CLAIMS FACTUAL INNOCENCE.

31 3. COORDINATE THE INVESTIGATION OF CASES THAT ARE ACCEPTED FOR REVIEW.

32 4. MAINTAIN RECORDS FOR ALL CASE INVESTIGATIONS.

33 5. PREPARE WRITTEN REPORTS OUTLINING COMMISSION INVESTIGATIONS AND  
34 RECOMMENDATIONS TO THE TRIAL COURT AT THE COMPLETION OF EACH INQUIRY.

35 6. APPLY FOR AND ACCEPT GRANTS, GIFTS, DONATIONS OR BEQUESTS FROM ANY  
36 SOURCE.

37 7. ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A REPORT OF THE  
38 COMMISSION'S ACTIVITIES TO THE ARIZONA CRIMINAL JUSTICE COMMISSION. THE  
39 REPORT SHALL INCLUDE A RECOMMENDATION FOR THE AMOUNT OF FUNDING THAT IS  
40 NEEDED BY THE COMMISSION, COUNTY ATTORNEYS AND THE ATTORNEY GENERAL TO MEET  
41 THEIR RESPONSIBILITIES UNDER THIS CHAPTER. THE REPORT MAY RECOMMEND  
42 LEGISLATIVE CHANGES RELATING TO THE ACTIVITIES OF THE COMMISSION.

43 8. ON OR BEFORE DECEMBER 31, 2011 AND EVERY THIRD YEAR THEREAFTER,  
44 SUBMIT A REPORT TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,  
45 THE PRESIDENT OF THE SENATE AND THE CHIEF JUSTICE OF THE SUPREME COURT AND

1 PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF  
2 THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE REPORT SHALL  
3 INCLUDE STATISTICS REGARDING INQUIRIES AND RECOMMENDATIONS FOR CHANGES.

4 B. THE COMMISSION MAY MEET IN ANY AREA THAT IS PROVIDED BY THE  
5 DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE COURTS, OR, WITH APPROPRIATE  
6 LEGISLATIVE APPROVAL, IN ANY LEGISLATIVE FACILITY. THE DIRECTOR OF THE  
7 ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE OFFICE SPACE FOR THE  
8 COMMISSION AND COMMISSION STAFF.

9 41-4406. Claims of innocence; waiver of procedural safeguards  
10 and privileges; formal inquiry; notification

11 A. ANY COURT, PERSON OR AGENCY MAY REFER A CLAIM OF FACTUAL INNOCENCE  
12 TO THE COMMISSION. THE COMMISSION SHALL NOT CONSIDER A CLAIM OF FACTUAL  
13 INNOCENCE IF THE CONVICTED PERSON IS DECEASED. THE COMMISSION HAS DISCRETION  
14 TO DETERMINE WHETHER TO GRANT A FORMAL INQUIRY REGARDING ANY OTHER CLAIM OF  
15 FACTUAL INNOCENCE. THE COMMISSION MAY SCREEN INFORMALLY AND DISMISS A CASE  
16 SUMMARILY.

17 B. THE COMMISSION SHALL NOT MAKE A FORMAL INQUIRY INTO A CLAIM OF  
18 INNOCENCE UNLESS THE DIRECTOR OR THE DIRECTOR'S DESIGNEE FIRST OBTAINS A  
19 SIGNED AGREEMENT FROM THE CONVICTED PERSON IN WHICH THE CONVICTED PERSON  
20 WAIVES PROCEDURAL SAFEGUARDS AND PRIVILEGES, AGREES TO COOPERATE WITH THE  
21 COMMISSION AND AGREES TO PROVIDE FULL DISCLOSURE REGARDING ALL INQUIRY  
22 REQUIREMENTS OF THE COMMISSION. THE WAIVER UNDER THIS SUBSECTION DOES NOT  
23 APPLY TO MATTERS THAT ARE UNRELATED TO A CONVICTED PERSON'S CLAIM OF  
24 INNOCENCE. THE CONVICTED PERSON HAS THE RIGHT TO BE REPRESENTED BY COUNSEL  
25 BEFORE THE EXECUTION OF THE AGREEMENT AND, IF A FORMAL INQUIRY IS GRANTED,  
26 THROUGHOUT THE FORMAL INQUIRY. IF COUNSEL REPRESENTS THE CONVICTED PERSON,  
27 THE CONVICTED PERSON'S COUNSEL SHALL BE PRESENT AT THE SIGNING OF THE  
28 AGREEMENT. IF COUNSEL DOES NOT REPRESENT THE CONVICTED PERSON, THE  
29 COMMISSION CHAIRPERSON SHALL DETERMINE THE CONVICTED PERSON'S INDIGENCY  
30 STATUS AND, IF APPROPRIATE, ENTER AN ORDER FOR THE APPOINTMENT OF COUNSEL FOR  
31 THE PURPOSE OF ADVISING THE CONVICTED PERSON ON THE AGREEMENT.

32 C. IF A FORMAL INQUIRY IS GRANTED REGARDING A CLAIM OF FACTUAL  
33 INNOCENCE, THE DIRECTOR SHALL NOTIFY THE VICTIM IN THE CASE AND EXPLAIN THE  
34 INQUIRY PROCESS. THE COMMISSION SHALL INFORM THE VICTIM THAT THE VICTIM HAS  
35 THE RIGHT TO PRESENT THE VICTIM'S VIEWS AND CONCERNS THROUGHOUT THE  
36 COMMISSION'S INVESTIGATION.

37 D. THE COMMISSION MAY OBTAIN INFORMATION NECESSARY TO ITS INQUIRY  
38 PURSUANT TO TITLE 13, THE ARIZONA RULES OF CRIMINAL PROCEDURE AND THE ARIZONA  
39 RULES OF CIVIL PROCEDURE. THE COMMISSION MAY ISSUE PROCESS TO COMPEL THE  
40 ATTENDANCE OF WITNESSES AND THE PRODUCTION OF EVIDENCE, ADMINISTER OATHS,  
41 PETITION THE SUPERIOR COURT IN THE COUNTY OF ORIGINAL JURISDICTION FOR  
42 ENFORCEMENT OF PROCESS OR FOR OTHER RELIEF AND ADOPT ITS OWN RULES OF  
43 PROCEDURE. THE COMMISSION CHAIRPERSON, IN THE CHAIRPERSON'S JUDICIAL  
44 CAPACITY, SHALL HEAR ALL CHALLENGES WITH REGARD TO THE COMMISSION'S AUTHORITY  
45 OR THE COMMISSION'S ACCESS TO EVIDENCE, INCLUDING ANY IN CAMERA REVIEW.

1 E. WHILE PERFORMING DUTIES FOR THE COMMISSION, THE DIRECTOR OR THE  
2 DIRECTOR'S DESIGNEE MAY SERVE ANY SUBPOENA OR OTHER PROCESS THAT IS ISSUED BY  
3 THE COMMISSION THROUGHOUT THIS STATE IN THE SAME MANNER AND WITH THE SAME  
4 EFFECT AS AN OFFICER WHO IS AUTHORIZED TO SERVE PROCESS.

5 F. ALL STATE DISCOVERY AND DISCLOSURE STATUTES IN EFFECT AT THE TIME  
6 OF ANY FORMAL INQUIRY ARE ENFORCEABLE AS IF THE CONVICTED PERSON WERE  
7 CURRENTLY BEING TRIED FOR THE CHARGE FOR WHICH THE CONVICTED PERSON IS  
8 CLAIMING INNOCENCE.

9 G. IF AT ANY POINT DURING AN INQUIRY THE CONVICTED PERSON REFUSES TO  
10 COMPLY WITH ANY REQUEST OF THE COMMISSION OR IS OTHERWISE DEEMED TO BE  
11 UNCOOPERATIVE BY THE COMMISSION, THE COMMISSION SHALL DISCONTINUE THE  
12 INQUIRY.

13 41-4407. Commission proceedings

14 A. AT THE COMPLETION OF A FORMAL INQUIRY, ALL RELEVANT EVIDENCE SHALL  
15 BE PRESENTED TO THE FULL COMMISSION. AS PART OF ITS PROCEEDINGS, THE  
16 COMMISSION MAY CONDUCT PUBLIC HEARINGS. THE COMMISSION HAS SOLE DISCRETION  
17 TO DETERMINE WHETHER TO CONDUCT PUBLIC HEARINGS. IF A PUBLIC HEARING IS HELD  
18 PURSUANT TO THIS SECTION, THE HEARING IS SUBJECT TO THE COMMISSION'S RULES OF  
19 OPERATION.

20 B. THE DIRECTOR SHALL NOTIFY THE VICTIM AT LEAST THIRTY DAYS BEFORE  
21 ANY PROCEEDING BEFORE THE FULL COMMISSION INVOLVING THE VICTIM'S CASE. THE  
22 COMMISSION SHALL NOTIFY THE VICTIM THAT THE VICTIM IS PERMITTED TO ATTEND  
23 PROCEEDINGS THAT ARE OTHERWISE CLOSED TO THE PUBLIC, SUBJECT TO ANY  
24 LIMITATION IMPOSED BY THIS CHAPTER. IF THE VICTIM PLANS TO ATTEND  
25 PROCEEDINGS THAT ARE OTHERWISE CLOSED TO THE PUBLIC, THE VICTIM SHALL NOTIFY  
26 THE COMMISSION AT LEAST TEN DAYS BEFORE THE PROCEEDING OF THE VICTIM'S INTENT  
27 TO ATTEND. IF THE COMMISSION DETERMINES THAT THE VICTIM'S PRESENCE MAY  
28 INTERFERE WITH THE INVESTIGATION, THE COMMISSION MAY CLOSE ANY PORTION OF THE  
29 PROCEEDING TO THE VICTIM.

30 C. AFTER HEARING THE EVIDENCE, THE FULL COMMISSION SHALL VOTE TO  
31 ESTABLISH FURTHER CASE DISPOSITION AS FOLLOWS:

32 1. ALL EIGHT MEMBERS SHALL PARTICIPATE IN THE VOTE.

33 2. IF FIVE OR MORE OF THE MEMBERS CONCLUDE THAT THERE IS SUFFICIENT  
34 EVIDENCE OF FACTUAL INNOCENCE TO MERIT JUDICIAL REVIEW, THE COMMISSION SHALL  
35 REFER THE CASE TO THE PRESIDING JUDGE OF THE SUPERIOR COURT IN THE COUNTY OF  
36 ORIGINAL JURISDICTION BY FILING ITS OPINION, INCLUDING SUPPORTING FINDINGS OF  
37 FACT AS WELL AS THE RECORD IN SUPPORT OF THE COMMISSION'S OPINION, WITH THE  
38 CLERK OF THE COURT, WITH SERVICE ON THE COUNTY ATTORNEY IN NONCAPITAL CASES  
39 AND SERVICE ON THE COUNTY ATTORNEY AND THE ATTORNEY GENERAL IN CAPITAL CASES,  
40 EXCEPT THAT IN CASES IN WHICH THE CONVICTED PERSON ENTERED AND WAS CONVICTED  
41 ON A GUILTY PLEA, ALL EIGHT MEMBERS MUST CONCLUDE THAT THERE IS SUFFICIENT  
42 EVIDENCE OF FACTUAL INNOCENCE TO MERIT JUDICIAL REVIEW BEFORE THE COMMISSION  
43 MAY REFER THE CASE TO THE PRESIDING JUDGE OF THE SUPERIOR COURT IN THE COUNTY  
44 OF ORIGINAL JURISDICTION.

1           3. IF FEWER THAN FIVE MEMBERS CONCLUDE OR, IN CASES IN WHICH THE  
2 CONVICTED PERSON ENTERED AND WAS CONVICTED OF A GUILTY PLEA, IF FEWER THAN  
3 ALL OF THE VOTING MEMBERS CONCLUDE THAT THERE IS SUFFICIENT EVIDENCE OF  
4 FACTUAL INNOCENCE TO MERIT JUDICIAL REVIEW, THE COMMISSION SHALL CONCLUDE  
5 THAT THERE IS INSUFFICIENT EVIDENCE OF FACTUAL INNOCENCE TO MERIT JUDICIAL  
6 REVIEW. THE COMMISSION SHALL DOCUMENT ITS OPINION, INCLUDING SUPPORTING  
7 FINDINGS OF FACT, AND SHALL FILE THE DOCUMENTS AND SUPPORTING MATERIALS WITH  
8 THE PRESIDING JUDGE OF THE SUPERIOR COURT IN THE COUNTY OF ORIGINAL  
9 JURISDICTION, THE CLERK OF THE COURT AND THE COUNTY ATTORNEY.

10          D. THE DIRECTOR SHALL NOTIFY THE VICTIM IMMEDIATELY OF THE  
11 COMMISSION'S CONCLUSION IN A CASE.

12          E. THE COMMISSION SHALL REFER TO THE APPROPRIATE AUTHORITY ANY  
13 EVIDENCE OF CRIMINAL ACTS, PROFESSIONAL MISCONDUCT OR OTHER WRONGDOING THAT  
14 IS DISCLOSED DURING A FORMAL INQUIRY OR OTHER COMMISSION PROCEEDING. THE  
15 COMMISSION SHALL DISCLOSE TO THE CONVICTED PERSON OR THE CONVICTED PERSON'S  
16 COUNSEL ANY EVIDENCE THAT IS DISCLOSED THROUGH A FORMAL INQUIRY OR OTHER  
17 COMMISSION PROCEEDING AND THAT IS FAVORABLE TO THE CONVICTED PERSON.

18          F. COMMISSION PROCEEDINGS SHALL BE RECORDED AND TRANSCRIBED AS PART OF  
19 THE RECORD. ALL COMMISSION MEMBER VOTES SHALL BE RECORDED IN THE RECORD.  
20 COMMISSION PROCEEDINGS ARE NOT SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1  
21 AND COMMISSION RECORDS ARE NOT PUBLIC RECORDS AND ARE EXEMPT FROM TITLE 39,  
22 CHAPTER 1, EXCEPT THAT THE COMMISSION'S CONCLUSION THAT THERE IS SUFFICIENT  
23 EVIDENCE OF FACTUAL INNOCENCE, INCLUDING ALL FILES AND MATERIALS CONSIDERED  
24 BY THE COMMISSION AND A FULL TRANSCRIPT OF THE HEARING BEFORE THE COMMISSION,  
25 BECOMES PUBLIC AT THE TIME THE COMMISSION REFERS THE CASE TO THE SUPERIOR  
26 COURT. RECORDS RELATING TO THE COMMISSION'S CONCLUSION THAT INSUFFICIENT  
27 EVIDENCE OF FACTUAL INNOCENCE EXISTS SHALL REMAIN CONFIDENTIAL, EXCEPT AS  
28 PROVIDED IN SUBSECTION E.

29          41-4408. Three judge panel; relief

30          A. IF THE COMMISSION CONCLUDES THAT THERE IS SUFFICIENT EVIDENCE OF  
31 FACTUAL INNOCENCE TO MERIT JUDICIAL REVIEW, THE CHAIRPERSON SHALL REQUEST  
32 THAT THE CHIEF JUSTICE OF THE SUPREME COURT APPOINT A THREE JUDGE PANEL TO  
33 CONVENE A SPECIAL SESSION OF THE SUPERIOR COURT IN THE COUNTY OF ORIGINAL  
34 JURISDICTION TO HEAR EVIDENCE THAT IS RELEVANT TO THE COMMISSION'S  
35 RECOMMENDATION. THE THREE JUDGE PANEL SHALL NOT INCLUDE ANY TRIAL JUDGE WHO  
36 HAD SUBSTANTIAL PREVIOUS INVOLVEMENT IN THE CASE. THE SENIOR JUDGE OF THE  
37 PANEL SHALL PRESIDE.

38          B. THE PRESIDING JUDGE OF THE SUPERIOR COURT SHALL ENTER AN ORDER  
39 SETTING THE CASE FOR HEARING AT THE SPECIAL SESSION OF THE SUPERIOR COURT FOR  
40 WHICH THE THREE JUDGE PANEL IS COMMISSIONED AND SHALL REQUIRE THE STATE TO  
41 FILE A RESPONSE TO THE COMMISSION'S OPINION WITHIN SIXTY DAYS AFTER THE DATE  
42 OF THE ORDER.

43          C. THE AGENCY THAT WAS RESPONSIBLE FOR THE PROSECUTION AT THE TRIAL  
44 STAGE SHALL REPRESENT THE STATE AT THE HEARING BEFORE THE THREE JUDGE PANEL.

D. THE THREE JUDGE PANEL SHALL CONDUCT AN EVIDENTIARY HEARING. AT THE HEARING, THE COURT MAY COMPEL THE TESTIMONY OF ANY WITNESS, INCLUDING THE CONVICTED PERSON. THE CONVICTED PERSON MAY NOT ASSERT ANY PRIVILEGE OR PREVENT A WITNESS FROM TESTIFYING. THE CONVICTED PERSON HAS A RIGHT TO BE PRESENT AT THE EVIDENTIARY HEARING AND TO BE REPRESENTED BY COUNSEL. THE CONVICTED PERSON MAY WAIVE THE RIGHT TO BE PRESENT IN WRITING.

E. THE PRESIDING JUDGE OF THE SUPERIOR COURT SHALL DETERMINE THE CONVICTED PERSON'S INDIGENCY STATUS AND, IF APPROPRIATE, ORDER THE APPOINTMENT OF COUNSEL. THE COURT MAY ENTER AN ORDER RELIEVING THE INDIGENT CONVICTED PERSON OF ALL OR PART OF THE COSTS OF THE PROCEEDINGS.

F. THE CLERK OF THE SUPERIOR COURT SHALL PROVIDE WRITTEN NOTICE TO THE VICTIM THIRTY DAYS BEFORE ANY CASE RELATED HEARINGS.

G. ON MOTION OF EITHER PARTY, THE SENIOR JUDGE OF THE PANEL MAY DIRECT THAT ATTORNEYS FOR THE PARTIES APPEAR BEFORE THE JUDGE FOR A CONFERENCE ON ANY MATTER IN THE CASE.

H. THE THREE JUDGE PANEL SHALL DETERMINE BY UNANIMOUS VOTE WHETHER THE CONVICTED PERSON HAS PROVED BY CLEAR AND CONVINCING EVIDENCE THAT THE CONVICTED PERSON IS INNOCENT OF THE CHARGES. IF THE VOTE IS UNANIMOUS, THE PANEL SHALL ENTER AN ORDER DISMISSING ANY OR ALL OF THE CHARGES. IF THE VOTE IS NOT UNANIMOUS, THE PANEL SHALL DENY RELIEF.

41-4409. Further review; postconviction rights

A. UNLESS OTHERWISE PROVIDED BY THIS CHAPTER, THE DECISIONS OF THE COMMISSION AND THE THREE JUDGE PANEL ARE FINAL AND ARE NOT SUBJECT TO FURTHER REVIEW BY APPEAL, CERTIFICATION, WRIT, MOTION OR OTHERWISE.

B. A CLAIM OF FACTUAL INNOCENCE THAT IS ASSERTED THROUGH THE COMMISSION SHALL NOT ADVERSELY AFFECT THE CONVICTED PERSON'S RIGHTS TO OTHER POSTCONVICTION RELIEF.

Sec. 3. Initial terms of members of Arizona innocence inquiry commission

A. Notwithstanding section 41-4403, Arizona Revised Statutes, as added by this act, the initial terms of members of the Arizona innocence inquiry commission are:

1. Two terms ending on January 1, 2009.
2. Three terms ending on January 1, 2010.
3. Three terms ending on January 1, 2011.

B. The chief justice of the supreme court shall make all subsequent appointments as prescribed by statute.

Sec. 4. Purpose

Pursuant to section 41-2955, subsection E, Arizona Revised Statutes, the legislature establishes the Arizona innocence inquiry commission to investigate and determine credible claims of factual innocence.

Sec. 5. Applicability

This act applies to claims of factual innocence that are filed on or before December 31, 2011.